19 July 1946

Mr. E. F. Vickers, Sr.
Manager, State Labor Dept.
Phoenix, A r i z o n a

Dear Mr. Vickers:

We have a letter written to you 11 June 1946 by Julia B. Scott of Winslow, which you refer to us for opinion. The letter deals with that part of Article 3, A.C.A. 1939, which prescribes hours and conditions of work for women and children.

The typical factual question involved is this: A railroad yard office employee works as a call clerk on a swing shift on one day (4 P.M. to midnight) for eight consecutive hours and then works the next day from 8 A.M. to 4 P. M., thereby working sixteen hours during a twenty-four-hour period. The question arises, is this a violation of the law? Does the law forbid the working of more than eight hours in any twenty-four-hour period, or does it merely require that there be no more than eight hours work in a "day"?

The law is as follows (Sec. 56-320, A.C.A. 1939):

> "No employer, employing females in any labor other than domestic work, shall employ or suffer any female to work more than eight (8) hours in any one (1) day nor more than forty-eight (48) hours in any one (1) week, the eight (8) hours to be performed in a period not to exceed thirteen (13) consecutive hours, and every employer shall provide one (1) full day of rest a week for all females in his employ."

The meaning of the law obviously depends on what the Legislature meant by the phrase "in any one day". The cases are almost unanimous in holding that the term "day",

as used in enactments or contracts, means twenty-four hours from midnight to midnight, except where restricted.--Dallas County v. Reynolds, 199 S. W. 702; Pannell v. Glidewell, 111 So. 571; Cheek v. Preston, 72 N. E. 1946; Sexton v. Goodwine, 68 N. E. 921. Applying this rule, it appears that the factual situation set forth above is not a violation of the hour law, for one shift occurs one day and the second shift another. It may have been the intention of the Legislature to prevent a female working more than eight hours in any twenty-four-hour period, but such construction is clearly contrary to the words used in the law and the interpretations generally placed upon those words in cases arising under the law. It would, in the opinion of this office, take a legislative amendment to give the law this claimed effect.

The fact remains, however, that a female may not be employed more than eight hours in a period from midnight to midnight. Thus the second case cited, that of Mrs. Thelma Rubi, is clearly a violation of the law, for in working Mrs. Rubi from midnight to 8 A.M., and then another four hours from 8 A.M. to 12:00, is clearly a case of working twelve hours "in any one day", and a plain infraction of the statute.

The provisions requiring the eight-hour day to be performed in a period not to exceed "thirteen consecutive hours" does not alter the above rules as applied to the factual situation. It obviously was the intention of the Legislature to prevent such eight hours of work from being spread over more than thirteen hours in any one day.

The Scott letter also proposes that this office suggest a reduction of the force in the Winslow yard office to three employees to enable the remaining employees to work over-time under Section 56-320. Since this is a matter to be settled between the railroad and the clerks, it is not within our power to interfere. However, any future violations of our law, as interpreted in this opinion, should be referred to the county attorney of Navajo County for action.

Hoping this letter will aid you in answering the questions posed, we remain

Very truly yours,

JOHN L. SULLIVAN, Attorney General

WILLIAM P. MAHONEY, Jr., Assistant Attorney General

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